

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HARRY L. BIERLEY,

Plaintiff,

v.

JOANNE B. BARNHART,  
Commissioner of Social Security,

Defendant.

Civil Action No. 05-07 Erie

**MEMORANDUM ORDER**

Plaintiff's social security complaint was received by the Clerk of Court on January 6, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 28], filed on November 14, 2005, recommended that Defendant's Partial Motion to Dismiss [Doc. No. 7] be granted. The Magistrate Judge's Report and Recommendation [Doc. No. 29], filed on November 14, 2005, recommended that Plaintiff's Motion for Summary Judgment [Doc. No. 13] be denied, and that Defendant's Motion for Summary Judgment [Doc. No. 17] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. Plaintiff filed objections [Doc. No. 30] on November 25, 2005. After de novo review of the documents in the case, together with the Reports and Recommendations, and objections thereto, the following order is entered:

AND NOW, this 30<sup>th</sup> day of November, 2005;

IT IS HEREBY ORDERED that Defendant's Partial Motion to Dismiss [Doc. No. 7] is GRANTED; Plaintiff's Motion for Summary Judgment [Doc. No. 13] is DENIED, and Defendant's Motion for Summary Judgment [Doc. No. 17] is GRANTED.

The Reports and Recommendations [Doc. No. 28] and [Doc. No. 29] of Magistrate Judge Baxter, filed on November 14, 2005, are adopted as the opinions of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge